

AO 440 (Rev. 10/93) Summons in a Civil Action

United States District Court

DISTRICT OF DELAWARE

SUMMONS IN A CIVIL CASE

CHARLES W. SMITH,

V.

CASE NUMBER:

XYBERNAUT CORPORATION,
EDWARD G. NEWMAN, STEVEN A.
NEWMAN, THOMAS D. DAVIS,
BRUCE C. HAYDEN, and GRANT
THORNTON LLP,

TO: (Name and address of defendant):

Xybernaut Corporation
c/o The Prentice-Hall Corporation System, Inc.
2711 Centerville Road, Suite 400
Wilmington, DE 19808

YOU ARE HEREBY SUMMONED and required to serve upon PLAINTIFF'S ATTORNEY (name and address)

Jessica Zeldin, Esquire
Rosenthal, Monhait, Gross
& Goddess, P.A.
919 N. Market Street, Suite 1401
P. O. Box 1070
Wilmington, DE 19899-1070

an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You must also file your answer with the Clerk of this Court within a reasonable period of time after service.

PETER T. DALLEO

CLERK

(BY) DEPUTY CLERK

JUN 02 2005

DATE

RETURN OF SERVICE

Service of the Summons and Complaint was made by me ¹	DATE 6/3/05
NAME OF SERVER (PRINT) Christan Biliski	TITLE Courier

Check one box to indicate appropriate method of service:

- ☐ Served personally upon the defendant. Place where served: _____
- ☐ Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein.
Name of person with whom the summons and complaint were left: _____
- ☐ Returned unexecuted: _____

☒ Other (specify): Xybernaut Corporation c/o The Prentice Hall
Corporation System, Inc. 2711 Centerville Rd, Suite 400
c/o Mary T. Drummond Wilmington, DE 19808

STATEMENT OF SERVICE FEES

TRAVEL	SERVICES	TOTAL

DECLARATION OF SERVER

I declare, under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.

Executed on 6/3/05
Date

C Biliski
Signature of Server

800 N. King St
Address of Server
Wilm, DE 19801

(1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure.